

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

SHELDON CARR,

Plaintiff,

v.

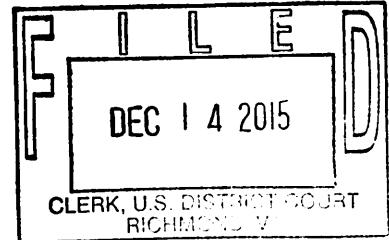
BLUESTEM BRANDS, INC.

d/b/a Fingerhut,

Defendant.

- Case No.: 3:15-cv-756

- PLAINTIFF'S COMPLAINT



COMPLAINT

SHELDON CARR ("Plaintiff"), through his attorneys, alleges the following against BLUESTEM BRANDS, INC. d/b/a Fingerhut ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant conducts business in the this district.

PARTIES

4. Plaintiff is a natural person at times relevant residing in Churchroad, Virginia.

5. Defendant is a business entity incorporated in Delaware and headquartered at 6509 Flying Cloud Dr., Eden Prairie, Minnesota 55344.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. Defendant started calling (804) 389-79xx, Plaintiff's cellular telephone.

8. Upon information and belief based on the frequency, number, nature, and character of these calls, Defendant placed them using an automatic telephone dialing system or other equipment that has the capacity to store and/or produce telephone numbers ("auto dialer").

9. The purpose of Defendant's calls was to collect a debt.

10. These calls were for a non-emergency purpose.

11. On June 17, 2015, Plaintiff instructed Defendant's employee "Samoya" to stop calling him.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call his cell phone.

13. Defendant continued to use an auto dialer to call Plaintiff's cell phone.

14. Since June 17, 2015, Defendant used an auto dialer to place call Plaintiff's cell phone at least two hundred forty-three (243) times.

15. Defendant voluntarily and willfully used an auto dialer to place these calls.

16. Defendant intended to use an auto dialer to place these calls.

17. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, SHELDON CARR, respectfully requests judgment be entered against Defendant, BLUESTEM BRANDS, INC. d/b/a Fingerhut, for the following:

20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);

22. All court costs, witness fees and other fees incurred; and

23. Awarding such other and further relief as may be just, proper and equitable.

RESPECTFULLY SUBMITTED,

DATED: November 12, 2015

By: Frank Webb
Frank Webb
Attorney at Law
Overland & Buster, P.C.
4085 Chain Bridge Rd., Suite 401
Fairfax, VA 22030
Phone: (703) 865-6305
Email: frank@obwlegal.com